THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	§	
Dorothy B. Franks et al.	§	
	§	Group Art Unit: 3714
Serial No.: 09/620,520	§	
	§	Examiner: Sotomayor, John
Filed: July 20, 2000	§	
	§	
For: AUTOMATIC IDENTIFICATION	§	Atty. Docket: GEMS:0091/YOD/SWA
OF MEDICAL STAFF TRAINING	§	15-SV-5495
NEEDS	§	

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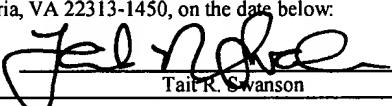
RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF MAILED ON NOVEMBER 22, 2005, AND APPEAL BRIEF PURSUANT TO 37 C.F.R. §§ 41.31 AND 41.37

Dear Sir:

FEES

Bec ause the present filing is in response to a Notification of Non-Compliant Appeal Brief Mailed on November 22, 2005, Appellants believe that the requisite fees for the Appeal Brief have *already* been charged by the Office. Appellants respectfully request the Patent Office to verify that the appropriate charges have been made and not recharge for the present filing in such case. In the event that the charges have not been made, the Patent Office is hereby authorized to charge the requisite fee of $500.00 for this Appeal Brief, and any additional fees which may be required, to **Deposit Account No. 50-2402, Order No. 15-SV-5495 (GEMS:0091/YOD/SWA).**

General Authorization for Extensions of Time

In accordance with 37 C.F.R. § 1.136, Appellants hereby provide a general authorization to treat this and any future reply requiring an extension of time as

incorporating a request therefor. Furthermore, Appellants authorize the Commissioner to charge the appropriate fee for any extension of time to **Deposit Account No. 50-2402, Order No. 15-SV-5495 (GEMS:0091/YOD/SWA).**

In response to the Notification of Non-Compliant Appeal Brief Mailed on November 22, 2005, Appellants corrected the Appeal Brief as required in the Notification. In particular, Appellants revised the summary of the claimed subject matter, added an evidence appendix, and added a related proceedings appendix. Appellants believe these changes are fully responsive to the Notification.

This corrected Appeal Brief is being filed in furtherance to the Notice of Appeal mailed on February 9, 2005, and received by the Patent Office on February 16, 2005.

1. **REAL PARTY IN INTEREST**

The real party in interest is GE Medical Technology Services, Inc., the Assignee of the above-referenced application by virtue of the Assignment to GE Medical Technology Services, Inc. recorded at reel 011193, frame 0029, and dated 10/16/2000. GE Medical Technology Services, Inc., the Assignee of the above-referenced application, as evidenced by the documents mentioned above, will be directly affected by the Board's decision in this Appeal.

2. **RELATED APPEALS AND INTERFERENCES**

Appellants are unaware of any other appeals or interferences related to this Appeal. The undersigned is Appellants' legal representative in this Appeal. Again, GE Medical Technology Services, Inc., the Assignee of the above-referenced application, as evidenced by the documents mentioned above, will be directly affected by the Board's decision in the pending appeal.

3.   **STATUS OF CLAIMS**

In the above-referenced application, claims 1-28 are currently pending and finally rejected, and, thus, the subject of this Appeal.

4.   **STATUS OF AMENDMENTS**

The pending claims 1-28 are all in their original form and, thus, there are no outstanding amendments.

5.   **SUMMARY OF THE CLAIMED SUBJECT MATTER**

The following provides a concise explanation of the subject matter defined in each of the claims involved in the appeal, referring to the specification by page and line number and to the drawings by reference characters, as required by 37 C.F.R. § 41.37(c)(1)(v). Each element of the claims is identified by a corresponding reference to the specification and drawings where applicable. Note that the citation to passages in the specification and drawings for each claim element does not imply that the limitations from the specification and drawings should be read into the corresponding claim element.

With regard to the aspect of the invention set forth in independent claim 1, an embodiment in accordance with the present invention relates to a method of identifying training needs for biomedical equipment (e.g., 44) in a medical facility (e.g., 12, 14, and 16). *See, e.g.,* Application, Figs. 1, 2, and 9; page 7, lines 17-18; page 14, lines 23-25. The method includes collecting (e.g., 88, 92, and 182) identification and operation data (e.g., 98) associated with a plurality of biomedical equipment components (e.g., 44). *See, e.g.,* Application, Figs. 1, 2, and 9; page 7, lines 30-31; page 8, lines 1-16; page 14, lines 23-28. The method also includes storing (e.g., 94) the collected data (e.g., 98) in a central database (e.g., 36). *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 7, lines 6-9; page 8, lines 13-17. In addition, the method includes analyzing (e.g., 100 and 184) the operation data (e.g., 98) to identify at least one operational parameter affected by operator activities with the equipment components (e.g., 44). *See, e.g.,* Application, Figs. 1, 2, and 9; page 9, lines 9-29, page 14, lines 28-29. Finally, the method includes identifying (e.g.,

188) a training need based on the analyzed operational parameter. *See, e.g.,* Application, Figs. 1, 2, and 9; page 15, lines 4-6.

With regard to the aspect of the invention set forth in independent claim 15, an embodiment in accordance with the present invention relates to a system for identifying training needs associated with a plurality biomedical equipment components (e.g., 44) in a medical institution (e.g., 12, 14, and 16). *See, e.g.,* Application, Figs. 1, 2, and 9; page 7, lines 17-18; page 14, lines 23-25. The system includes a central database (e.g., 36) configured to store data (e.g., 98) representative of the equipment components (e.g., 44), the stored data including operation data and identification data identifying at least an equipment type. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 7, lines 6-9; page 8, lines 13-17. The system also includes a data analysis module (e.g., 118) configured to arrange the operation data into logical groupings (e.g., 96) and to analyze the operation data based on the logical groupings (e.g., 100), the logical groupings including an equipment type grouping. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 8, lines 19-31; page 9, lines 1-29, page 10, line 20 - page 11, line 10; page 14, lines 28-29. Finally, the system includes a report generator (e.g., 124) configured to generate a report (e.g., 190) including an arrangement of the analyzed operation data based on the logical groupings, wherein a training need is identifiable based on the arrangement. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 11, lines 7-10; page 15, lines 4-6.

With regard to the aspect of the invention set forth in independent claim 23, an embodiment in accordance with the present invention relates to a method for identifying a training need associated with biomedical equipment (e.g., 44) in a medical institution (e.g., 12, 14, and 16). *See, e.g.,* Application, Figs. 1, 2, and 9; page 7, lines 17-18; page 14, lines 23-25. The method includes storing data (e.g., 94 and 98) associated with the equipment (e.g., 44) in a central database (e.g., 36), the stored data including equipment operation data and equipment identification data. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 7, lines 6-9; page 8, lines 13-17. The method also includes logically grouping (e.g., 96) the stored equipment operation data (e.g., 98) in accordance with the

corresponding equipment identification data. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 8, lines 19-31; page 9, lines 1-29, page 10, line 20 - page 11, line 10; page 14, lines 28-29. In addition, the method includes analyzing (e.g., 100 and 184) the equipment operation data (e.g., 98) based on the logical grouping. *See id.* The method further includes generating (e.g., 190) a presentation of the analyzed equipment operation data in accordance with the logical grouping. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 11, lines 7-10; page 15, lines 4-6. Finally, the method includes identifying (e.g., 188 and 190) a training need associated with a particular piece of equipment based on the presentation. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 15, lines 4-10.

With regard to the aspect of the invention set forth in independent claim 28, an embodiment in accordance with the present invention relates to a system for of identifying training needs for biomedical equipment (e.g., 44) in a medical facility (e.g., 12, 14, and 16). The system includes means (e.g., 74, 88, 92, and 182) for collecting identification and operation data associated with a plurality of biomedical equipment components (e.g., 44). *See, e.g.,* Application, Figs. 1, 2, and 9; page 7, lines 30-31; page 8, lines 1-16; page 14, lines 23-28. The system also includes means (e.g., 74 and 94) for storing the collected data in a central database (e.g., 36). *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 7, lines 6-9; page 8, lines 13-17. The system further includes means (e.g., 76, 118, 184, and 186) for analyzing the operation data to identify at least one operational parameter affected by operator activities with the equipment components (e.g., 44). *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 8, lines 19-31; page 9, lines 1-29, page 10, line 20 - page 11, line 10; page 14, lines 28-29. Finally, the system includes means (e.g., 188 and 190) for identifying a training need based on the analyzed operational parameter. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 15, lines 4-10.

With regard to the aspect of the invention set forth in dependent claim 5, an embodiment in accordance with the present invention relates to a the method of claim 1, wherein the data (e.g., 98) includes data representative of individual operators (e.g., 184)

utilizing the equipment components. *See, e.g.,* Application, Figs. 2 and 9; page 14, line 23 – page 15, line 2.

With regard to the aspect of the invention set forth in dependent claim 8, an embodiment in accordance with the present invention relates to the method of claim 1, comprising the further step of generating a report (e.g., 190) of training need identified. *See, e.g.,* Application, Figs. 4 and 9; page 15, lines 4-11.

With regard to the aspect of the invention set forth in dependent claim 11, an embodiment in accordance with the present invention relates to a the method of claim 1, comprising the further step of associating (e.g., 96 and 186) the stored data (e.g., 98) into logical groups by equipment type, and wherein the training need is identified for an equipment type group. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 8, lines 19-31; page 9, lines 1-29, page 10, line 20 - page 11, line 10; page 14, lines 28-29.

With regard to the aspect of the invention set forth in dependent claim 12, an embodiment in accordance with the present invention relates to a the method of claim 11, further comprising associating (e.g., 96 and 186) the stored data (e.g., 98) into logical groups by equipment location, wherein the training need is identified for an equipment type group and an equipment location group. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 8, lines 19-31; page 9, lines 1-29, page 10, line 20 - page 11, line 10; page 14, lines 28-29.

With regard to the aspect of the invention set forth in dependent claim 17, an embodiment in accordance with the present invention relates to a the system of claim 15, wherein the operation data includes operator errors associated with the equipment components (e.g., 44), and wherein the arrangement of the analyzed operation data comprises a presentation of the operator errors associated with a particular equipment type. *See, e.g.,* Application, Figs. 1, 2, 4, and 9; page 14, line 23 - page 15, line 11.

6.   GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Appellants respectfully urge the Board to review and reverse the Examiner's ground of rejection in which the Examiner rejected claims 1-28 under 35 U.S.C. 102(e) as anticipated by Babula et al., U.S. Pat. No. 6,381,557.

7.   ARGUMENTS

In the Final Office Action, the Examiner rejected claims 1-28 under 35 U.S.C. 102(e) as anticipated by Babula et al. Appellants respectfully traverse this rejection in view of the following legal precedent and remarks.

Legal Precedent

First, the pending claims must be given an interpretation that is reasonable and consistent with the *specification. See In re Prater*, 415 F.2d 1393, 1404-05, 162 U.S.P.Q. 541, 550-51 (C.C.P.A. 1969) (emphasis added); M.P.E.P. §§ 608.01(o) and 2111. Indeed, the specification is "the primary basis for construing the claims." *See Phillips v. AWH Corp.*, No. 03-1269, -1286, at 13-16 (Fed. Cir. July 12, 2005) (*en banc*). One should rely *heavily* on the written description for guidance as to the meaning of the claims. *See id.*

Second, interpretation of the claims must also be consistent with the interpretation that *one of ordinary skill in the art* would reach. *See In re Cortright*, 165 F.3d 1353, 1359, 49 U.S.P.Q.2d 1464, 1468 (Fed. Cir. 1999); M.P.E.P. § 2111. "The inquiry into how a person of ordinary skill in the art understands a claim term provides an objective baseline from which to begin claim interpretation." *See Collegenet, Inc. v. ApplyYourself, Inc.*, No. 04-1202, -1222, 1251, at 8-9 (Fed. Cir. August 2, 2005) (quoting *Phillips*, No. 03-1269, -1286, at 16). The Federal Circuit has made clear that derivation of a claim term must be based on "usage in the ordinary and accustomed meaning of the words amongst artisans of ordinary skill in the relevant art." *See id.*

Third, anticipation under section 102 can be found only if a single reference shows exactly what is claimed. *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 227 U.S.P.Q. 773 (Fed. Cir. 1985). For a prior art reference to anticipate under section 102, every element of the claimed invention must be identically shown in a single reference. *In re Bond*, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990). To maintain a proper rejection under section 102, a single reference must teach each and every limitation of the rejected claim. *Atlas Powder v. E.I. du Pont*, 750 F.2d 1569 (Fed. Cir. 1984). Accordingly, the Appellants need only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter. The prior art reference also must show the *identical* invention *"in as complete detail as contained in the ... claim"* to support a *prima facie* case of anticipation. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q. 2d 1913, 1920 (Fed. Cir. 1989).

Fourth, if the Examiner relies on a theory of inherency, the extrinsic evidence must make clear that the missing descriptive matter is *necessarily* present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 49 U.S.P.Q.2d 1949 (Fed. Cir. 1999) (Emphasis Added). The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient. *Id.* In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic *necessarily* flows from the teachings of the applied prior art. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). The Examiner, in presenting the inherency argument, bears the evidentiary burden and must adequately satisfy this burden. *See id.*

Fifth, regarding functional limitations, the Examiner must evaluate and consider the functional limitation, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. *See* M.P.E.P. § 2173.05(g); *In re Swinehart*, 169 U.S.P.Q. 226, 229 (C.C.P.A. 1971); *In*

re Schreiber, 44 U.S.P.Q.2d 1429, 1432 (Fed. Cir. 1997). If the Examiner believes the functional limitation to be inherent in the cited reference, then the Examiner "must provide some evidence or scientific reasoning to establish the reasonableness of the examiner's belief that the functional limitation is an inherent characteristic of the prior art." *Ex parte Skinner*, 2 U.S.P.Q.2d 1788, 1789 (Bd. Pat. App. & Inter. 1986).

Sixth, the *drawings* of the cited reference must be evaluated for what they *reasonably disclose and suggest* to one of ordinary skill in the art. *In re Aslanian*, 590 F.2d 911, 200 U.S.P.Q. 500 (CCPA 1979).

***Features of Independent Claims 1 and 28
and Dependent Claims 2-14
Missing from Babula et al.***

The Examiner rejected independent claims 1 and 28 and dependent claims 2-14 under 35 U.S.C. 102(e) as anticipated by Babula et al. For example, independent claim 1 recites:

> A method of identifying training needs for biomedical equipment in a medical facility, the method comprising:
> collecting identification and operation data associated with a plurality of biomedical equipment components;
> storing the collected data in a central database;
> *analyzing* the operation data *to identify* at least one *operational parameter affected by operator activities* with the equipment components; and
> *identifying a training need based on the analyzed operational parameter*.

Independent claim 28 recites these features in means plus function format, as set forth in the Claims Appendix below. Therefore, Appellants present the following arguments with regard to independent claims 1 and 28.

In contrast to claims 1 and 28, the Babula reference is missing a number of features, such as "analyzing the *operation data* to identify at least one operational parameter *affected by operator activities*." (Emphasis added). In the Final Office Action, the Examiner relied on column 18, lines 30-35 for allegedly teaching this claim feature. *See* Final Office Action mailed November 9, 2004, Page 2. However, this passage of Babula et al. is devoid of any teaching or suggestion of identifying at least one operational parameter affected by operator activities. Instead, the passage simply states: "the service facility engineer will perform analysis of the *service issues* and recontact the diagnostic system." Babula et al., Col. 18, lines 30-32. Although Babula et al. disclose analysis, they do not mention any subsequent or associated acts other than recontacting the diagnostic system and/or utilizing the facility database. However, one of ordinary skill in the art would not interpret this teaching to include analyzing the operation data to identify at least one operational parameter affected by operator activities, as recited by claims 1 and 28. In view of these omitted features, the Babula reference cannot anticipate independent claim 1 or its dependent claims or independent claim 28.

In addition, the Babula reference is missing features relating to a training need. Specifically, Babula et al. do not teach or suggest "*identifying* a training *need* based on the analyzed operational parameter," as recited in claims 1 and 28. (Emphasis added). The Examiner has clearly misinterpreted these claim features and the prior art. Turning first to the specification and with reference to the *Philips* case presented above, the present application specifically discloses:

> A further type of processing which may be facilitated by the present technique is directed to identifying potential **training needs based upon utilization of the biomedical equipment components.** Fig. 9 represents steps in exemplary control logic for carrying out this processing, as indicated generally by reference numeral 180. The processing begins at step 182 where data for the components is accessed from the centralized database. At step 184, the data is analyzed to identify **factors which may be indicative of a need for staff training.** By way of

> example, such factors may include **logged errors, downtimes, service or procedural inquiries, and so forth**. In addition to identification of the particular components and training-indicative parameters, **the data may also be analyzed to identify specific operators or users who may benefit from additional training**. At step 186 the data is associated to identify the training needs by factors such as the equipment manufacturer, the component type, the department, the facility site, and so forth. Based upon the analysis made at steps 184 and 186, training needs are identified at step 188, and a report reflecting possible needs is generated at step 190. Again, the report generated at step 190, which may be generated in accordance with Fig. 5, may indicate specific **training needs for specific equipment or equipment types, and may identify specific departments, sites, groups, or even specific users which may benefit from the training**. As an optional step, actual training may be scheduled as indicated at step 192.

Application, page 14, line 23 – page 15, line 11. In view of this passage and other disclosures and drawings throughout the application, the Appellants stress that a training need is based on training-indicative parameters, such as logged errors, downtimes, etc.

Turning to the dictionary for additional support, "identify" may be defined as "to *recognize or establish* as being a particular person or thing." *See* THE RANDOM HOUSE COLLEGE DICTIONARY 659 (Rev. Ed. 1988) (emphasis added). Additionally, the claim term "need" may be defined as "a requirement, necessary duty, or obligation, or a *lack* of something wanted or *deemed necessary*." *See* THE RANDOM HOUSE COLLEGE DICTIONARY 890 (Rev. Ed. 1988) (emphasis added).

In the Final Office Action, the Examiner relied on column 18, lines 45-50 for allegedly teaching this claim feature. *See* Final Office Action mailed November 9, 2004, Page 2. Similarly, in the Advisory Action, the Examiner relied on column 18, lines 43-54 stating:

> Applicant's representative has chosen to mischaracterize the Babula et al reference by overlooking the recitation of the equipment technician's

responsibility for predicting future service needs and providing guidance on what instructional documentation would be needed in those situations (Col 18, lines 43-54). This <u>inherently shows</u> identifying a future training need for new and updated equipment and provides for addressing that need.

Advisory Action mailed January 25, 2005, Page 2 (emphasis added). However, this passage of Babula et al. is devoid of any teaching or suggestion of *identifying* a training *need* based on the analyzed operational parameters. Instead, the passage simply states: "access to the database at step 300 may include <u>access</u> to … instructional documentation and courses, schedules for training, and so forth." Babula et al., Col. 18, lines 46-49 (emphasis added). Although Babula et al. disclose instructional materials and training schedules, they do not mention *identification* of specific materials based on a training *need*. *See id.* In other words, Babula et al. simply disclose *access* to these materials in a general sense, e.g., a library of available instructional materials. *See id.* The mere *availability* of these materials does not necessarily mean that training was *lacking or deemed necessary*, e.g., a training need, as set forth in claims 1 and 28. In other words, it <u>does not necessarily flow</u> that the instructional documentation and courses would or could be *identified* based on a training *need*. Also, the disclosure of "predicting possible future <u>service</u> needs" is not the same as or suggestive of predicting or identifying <u>training</u> needs. Babula et al., Col. 18, lines 44-45 (emphasis added). These are clearly <u>different needs</u>, and there is no reason to believe (nor does it necessarily flow pursuant to the inherency doctrine) that the *prediction of these <u>service</u> needs* would involve *identifying a <u>training</u> need*.

In further contrast, Appellants emphasize that the claimed act of "identifying a training need" is based on a specific analysis, i.e., analyzed operational parameter, which – as discussed above – is affected by operator activities. The general *access* to instructional materials in Babula et al. cannot reasonably be interpreted to equate with identifying a training need based on an operational parameter that has been identified as being affected by operator activities with the equipment components. In addition, the passage cited by the Examiner further states: "Where such <u>information is located for the diagnostic system</u> *modality and type*, the data may be included in messages formulated by the service facility

and retransmitted to the diagnostic system." *Id.* at Col. 18, lines 49-52 (emphasis added).
Again, this passage neither discloses nor suggests identifying a training need based on the
analyzed operational parameter. Instead, it simply discloses the inclusion of general
information – by modality and type – along with messages. *See id.* However, locating
information by *modality and type* is different than identifying a training need based on an
operational parameter that has been identified as being *affected by operator activities* with
the equipment components, as set forth in claims 1 and 28. In view of these omitted
features, the Babula reference cannot anticipate independent claim 1 or its dependent claims
or independent claim 28.

Features of Dependent Claim 5
Missing from Babula et al.

Regarding the dependent claims, a number of additional features are believed to be
missing from the Babula reference. For example, dependent claim 5 recites "the *data*
includes data representative of *individual operators* utilizing the equipment components."
(Emphasis added). In the Final Office Action, the Examiner relied on "claim 6, lines 8-51"
for allegedly teaching this claim feature. *See* Final Office Action mailed November 9, 2004,
Page 3. This citation appears to be erroneous and, thus, the rejection of claim 5 is
incomplete. Neither claim 6 nor column 6, lines 8-51 teach or suggest data representative of
individual operators. In view of this deficiency, the Babula reference cannot anticipate
dependent claim 5.

Features of Dependent Claim 8
Missing from Babula et al.

Dependent claim 8 also recites features missing from the Babula reference. For
example, dependent claim 8 recites "generating a report of training need identified."
(Emphasis added). In the Final Office Action, the Examiner relied on column 19, lines 10-
16 for allegedly teaching this claim feature. *See* Final Office Action mailed November 9,
2004, Page 3. However, this passage of Babula et al. is devoid of any teaching or

suggestion of a report of *training need*, much less an *identified* training need. Instead, the passage simply states: "the response may further include ... reports of system operation." Babula et al., Col. 19, lines 14-16 (emphasis added). The disclosed report has nothing to do with an identified training need. In view of this deficiency, the Babula reference cannot anticipate dependent claim 8.

Features of Dependent Claims 11 and 12
Missing from Babula et al.

Turning to dependent claims 11 and 12, these claims recite "<u>associating the stored data into *logical groups* by equipment type</u>" and "<u>associating the stored data into logical groups by equipment location</u>," respectively. (Emphasis added). In addition, these claims 11 and 12 recite "the training need is identified for an equipment type group" and "the training need is identified for an equipment type group and an equipment location group," respectively. Again, these features are missing from the Babula reference. In the Final Office Action, the Examiner relied on column 18, lines 30-54 for allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004, Page 4. However, this passage of Babula et al. is devoid of any teaching or suggestion of the act of "associating the stored data into logical groups," much less groups by equipment type and/or equipment location. Although Babula et al. disclose that "information is *located* for the diagnostic system *modality and type*," they do not mention any *logical groupings* or *equipment location*. Babula et al., Col. 18, lines 49-50 (emphasis added). In view of these deficiencies, the Babula reference also fails to disclose, for example, that the "the training need is identified for an equipment type group and an *equipment location group*," as recited in claim 12. Again, as discussed above, the Babula reference only discusses training and instructional materials in a generic or non-specific manner, which has nothing to do with logical groupings such as equipment location. In view of these omitted features, the Babula reference cannot anticipate dependent claims 11 and 12.

*Features of Independent Claim 15
and Dependent Claims 16-22
Missing from Babula*

The Examiner rejected claims 15-22 under 35 U.S.C. 102(e) as anticipated by

Babula et al. Regarding independent claim 15, this claim recites:

> A system for identifying training needs associated
> with a plurality biomedical equipment components in a
> medical institution, the system comprising:
> a central database configured to store data
> representative of the equipment components, the stored
> data including operation data and identification data
> identifying at least an equipment type;
> *a data analysis module configured to arrange the
> operation data into logical groupings and to analyze the
> operation data based on the logical groupings*, the logical
> groupings including an equipment type grouping; and
> a report generator configured to generate a report
> including an *arrangement of the analyzed operation data
> based on the logical groupings*, wherein *a training need is
> identifiable based on the arrangement.*

In contrast to claim 15, the Babula reference is missing a number of features, such as

"*a data analysis module* configured to arrange the operation data into logical groupings and

to analyze the operation data *based on the logical groupings*." (Emphasis added). In the

Final Office Action, the Examiner relied on column 11, lines 4-25 for allegedly teaching this

claim feature. *See* Final Office Action mailed November 9, 2004, Page 4. However, this

passage of Babula et al. is devoid of any teaching or suggestion of a *data analysis module,*

much less analyzing based on *logical groupings*. Instead, this passage describes

functionality of the field service unit 24, which includes a device connectivity module 106, a

network connectivity module 108, an access module 114A, and adapter modules 116. *See*

Babula et al., Col. 11, lines 25-48. This field service unit 24 clearly lacks a data analysis

module, as recited in claim 15. The Babula reference further states: "the *service facility*

engineer will perform analysis of the *service issues* and recontact the diagnostic system."

Babula et al., Col. 18, lines 30-32 (emphasis added). Although Babula et al. disclose

analysis, they only describe manual analysis by an engineer. *See id.* Moreover, Babula et

al. do not disclose analysis based on logical groupings, as recited in claim 15. In view of these omitted features, the Babula reference cannot anticipate independent claim 15 or its dependent claims.

Independent claim 15 also recites "<u>a report generator configured to generate a report including an *arrangement* of the analyzed operation data *based on the logical groupings*, wherein *a training need is identifiable based on the arrangement*</u>." (Emphasis added). In the Final Office Action, the Examiner relied on column 19, lines 5-45 for allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004, Page 4. However, these passages of Babula et al. are devoid of any teaching or suggestion of an arrangement of analyzed operation data based on logical groupings, much less an *identified* training *need* based on the arrangement. Instead, the passage simply states: "Various types of reports may be produced, including reports relating to recent or historical *service activities*, reports of the *state of the diagnostic system*, including numbers and types of examinations performed, errors or problems encountered, anticipated service needs, and so forth." Babula et al., Col. 19, lines 31-36 (emphasis added). The disclosed report has nothing to do with logical groupings, an arrangement based on the logical groupings, or a training need identified based on the arrangement, as recited in claim 15. In view of these deficiencies, the Babula reference cannot anticipate independent claim 15 or its dependent claims.

Features of Dependent Claim 17 Missing from Babula et al.

Regarding the dependent claims, a number of additional features are believed to be missing from the Babula reference. For example, dependent claim 17 recites that the "<u>operation data includes *operator errors* associated with the equipment components, and wherein the *arrangement* of the analyzed operation data comprises a *presentation of the operator errors* associated with a particular equipment type</u>." (Emphasis added). In the Final Office Action, the Examiner relied on column 8, lines 35-55 for allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004, Page 5. However,

this passage is silent regarding individual operators, much less errors of those operators.

Instead, this passage merely discloses "memory circuitry for storing image data files, log

files, *error files*, and so forth." Babula et al., Col. 8, lines 49-51 (emphasis added). These

error files are never disclosed as or suggested to be associated with *operator errors*, as

recited in claim 17. In addition, the Babula reference does not describe these error files as

associated with equipment components or a particular equipment type. In view of these

deficiencies, the Babula reference cannot anticipate dependent claim 17.

Features of Independent Claim 23
and Dependent Claims 24-27
Missing from Babula

   The Examiner rejected claims 23-27 under 35 U.S.C. 102(e) as anticipated by

Babula et al. Claim 23 recites:

> A method for identifying a training need associated
> with biomedical equipment in a medical institution, the
> method comprising:
>   storing data associated with the equipment in a
> central database, the stored data including equipment
> operation data and equipment identification data;
>   *logically grouping* the stored equipment operation
> data in accordance with the corresponding equipment
> identification data;
>   *analyzing* the equipment operation data *based on*
> *the logical grouping*;
>   *generating a presentation* of the analyzed
> equipment operation data *in accordance with the logical*
> *grouping*; and
>   *identifying a training need associated with a*
> *particular piece of equipment based on the presentation.*

   In contrast to claim 23, the Babula reference is missing a number of features, such as

"*analyzing* the equipment operation data *based on the logical grouping*." (Emphasis

added). In the Final Office Action, the Examiner relied on column 18, lines 30-35 for

allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004,

Page 6. However, this passage of Babula et al. is devoid of any teaching or suggestion of

analysis based on *logical groupings*. Instead, the passage simply states: "the service facility engineer will perform analysis of the *service issues* and recontact the diagnostic system." Babula et al., Col. 18, lines 30-32 (emphasis added). Although Babula et al. disclose analysis, they do not mention any logical groupings associated with the analysis. In view of these omitted features, the Babula reference cannot anticipate independent claim 23 or its dependent claims.

Independent claim 23 also recites "*generating a presentation of the analyzed equipment operation data in accordance with the logical grouping*." (Emphasis added). In the Final Office Action, the Examiner relied on column 7, lines 12-35 for allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004, Page 6. However, these passages of Babula et al. are devoid of any teaching or suggestion of a presentation in accordance with logical groupings. Instead, these passages generally discuss the field service unit 24 and the uniform service platform 90, which is "adapted for composing service requests, transmitting and receiving service data, establishing network connections and managing financial or subscriber arrangements between diagnostic systems and the service facility." Babula et al., Col. 7, lines 20-24. The disclosed platform 90 has nothing to do with logical groupings, analysis of data, or a presentation based on the logical groupings, as recited in claim 23. In view of these deficiencies, the Babula reference cannot anticipate independent claim 23 or its dependent claims.

Finally, the Babula reference does not teach or suggest "*identifying a training need associated with a particular piece of equipment based on the presentation*," as recited by independent claim 23. (Emphasis added). In the Final Office Action, the Examiner relied on column 18, lines 45-50 for allegedly teaching these claim features. *See* Final Office Action mailed November 9, 2004, Page 6. However, these passages of Babula et al. do not teach or suggest identifying a training need, much less an identification based on the presentation. Instead, the passage simply states: "access to the database at step 300 may include access to ... instructional documentation and courses, schedules for training, and so forth." Babula et al., Col. 18, lines 46-49 (emphasis added). Although Babula et al. disclose

instructional materials and training schedules, they only disclose general access to these materials. *See id.* Moreover, the general *access* to instructional materials in Babula et al. cannot reasonably be interpreted to equate with *identifying a training need* based on the presentation (i.e., the presentation being derived from an analysis based on logical groupings). In addition, the passage cited by the Examiner further states: "Where such information is located for the diagnostic system *modality and type*, the data may be included in messages formulated by the service facility and retransmitted to the diagnostic system." *Id.* at Col. 18, lines 49-52 (emphasis added). Again, this passage neither discloses nor suggests identifying a training need based on the analyzed operational parameter. Instead, it simply discloses the inclusion of general information – by modality and type – along with messages. *See id.* However, locating information by *modality and type* is different than *identifying a training need* based on a *presentation* derived from an analysis based on *logical groupings*, as set forth in claim 23. In view of these omitted features, the Babula reference cannot anticipate independent claim 23 or its dependent claims.

### *Request Reversal of Examiner's Rejections*

For these reasons, the Appellants respectfully request that the Board reverse all outstanding rejections under 35 U.S.C. § 102.

CONCLUSION

If the Examiner or the Board believes that a teleconference with help expedite prosecution of the present application, the Examiner or the Board is invited to contact the undersigned attorney at the number listed below.

Respectfully submitted,

Date: <u>December 7, 2005</u>
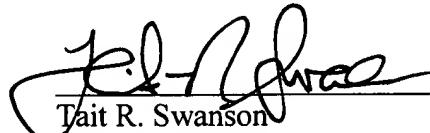
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8.   **CLAIMS APPENDIX**

1. (original) A method of identifying training needs for biomedical equipment in a medical facility, the method comprising:

collecting identification and operation data associated with a plurality of biomedical equipment components;

storing the collected data in a central database;

analyzing the operation data to identify at least one operational parameter affected by operator activities with the equipment components; and

identifying a training need based on the analyzed operational parameter.

2. (original) The method of claim 1, wherein the operational parameter includes operational errors for a type of equipment component.

3. (original) The method of claim 1, wherein the operational parameter includes failures for a type of equipment component.

4. (original) The method of claim 1, wherein the data includes equipment type, and wherein the training need is identified by analyzing the operational parameter for a plurality of equipment components of the equipment type.

5. (original) The method of claim 1, wherein the data includes data representative of individual operators utilizing the equipment components.

6. (original) The method of claim 1, wherein the medical institution includes a plurality of departments, and wherein the data includes data representative of the department to which equipment components are assigned.

7. (original) The method of claim 1, wherein the medical institution includes a plurality of geographically dispersed facility sites, and wherein the data includes data representative of the facility site at which equipment components are located.

8. (original) The method of claim 1, comprising the further step of generating a report of training need identified.

9. (original) The method of claim 8, wherein the report is generated at a location remote from the medical institution and is transmitted to the medical institution by a configurable network link.

10. (original) The method of claim 9, wherein the network link includes the Internet.

11. (original) The method of claim 1, comprising the further step of associating the stored data into logical groups by equipment type, and wherein the training need is identified for an equipment type group.

12. (original) The method of claim 11, further comprising associating the stored data into logical groups by equipment location, wherein the training need is identified for an equipment type group and an equipment location group.

13. (original) The method of claim 1, wherein the data further identifies an equipment manufacturer for each equipment component, and wherein the training need is identified for equipment components from a particular equipment manufacturer.

14. (original) The method of claim 1, wherein the data further includes data representative of downtime for the equipment components, and wherein the parameter includes downtime.

15. (original) A system for identifying training needs associated with a plurality biomedical equipment components in a medical institution, the system comprising:

a central database configured to store data representative of the equipment components, the stored data including operation data and identification data identifying at least an equipment type;

a data analysis module configured to arrange the operation data into logical groupings and to analyze the operation data based on the logical groupings, the logical groupings including an equipment type grouping; and

a report generator configured to generate a report including an arrangement of the analyzed operation data based on the logical groupings, wherein a training need is identifiable based on the arrangement.

16. (original) The system of claim 15, wherein the operation data includes breakdowns associated with the equipment components, and wherein the arrangement of the analyzed operation data comprises a presentation of the breakdowns associated with a particular equipment type.

17. (original) The system of claim 15, wherein the operation data includes operator errors associated with the equipment components, and wherein the arrangement of the analyzed operation data comprises a presentation of the operator errors associated with a particular equipment type.

18. (original) The system of claim 15, wherein the arrangement of the operation data includes a first presentation of the operation data for a particular medical facility and a second presentation of the operation data for a plurality of medical facilities.

19. (original) The system of claim 18, wherein the medical facilities are at geographically diverse locations.

20. (original) The system of claim 18, further comprising a user interface configured to provide access to the generated report.

21. (original) The system of claim 20, wherein the report is generated at a location remote from the medical institution and is transmitted to the medical institution via a communication network.

22. (original) The system of claim 21, wherein the communication network includes the Internet.

23. (original) A method for identifying a training need associated with biomedical equipment in a medical institution, the method comprising:

storing data associated with the equipment in a central database, the stored data including equipment operation data and equipment identification data;

logically grouping the stored equipment operation data in accordance with the corresponding equipment identification data;

analyzing the equipment operation data based on the logical grouping;

generating a presentation of the analyzed equipment operation data in accordance with the logical grouping; and

identifying a training need associated with a particular piece of equipment based on the presentation.

24. (original) The method of claim 23, wherein the logical grouping comprises an equipment type grouping, an equipment manufacturer grouping, and an equipment location grouping.

25. (original) The method of claim 24, wherein the equipment location grouping comprises locations of the pieces of equipment.

26. (original) The method of claim 24, wherein the location grouping references a plurality of geographically diverse medical facilities.

27. (original) The method of claim 23, wherein the operation data includes breakdowns and operator errors associated with the equipment.

28. (original) A system for of identifying training needs for biomedical equipment in a medical facility, the method comprising:

    means for collecting identification and operation data associated with a plurality of biomedical equipment components;

    means for storing the collected data in a central database;

    means for analyzing the operation data to identify at least one operational parameter affected by operator activities with the equipment components; and

    means for identifying a training need based on the analyzed operational parameter.

9.   **<u>EVIDENCE APPENDIX</u>**

None.

10.   **RELATED PROCEEDINGS APPENDIX**

None.

UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,520	07/20/2000	Dorothy B. Franks	GEMS:0091	2920

7590   11/22/2005

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EXAMINER

ART UNIT	PAPER NUMBER

DATE MAILED: 11/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Non-Compliant Appeal Brief

DOCKETED
FOR _12/22/2005_
BY _ν 11/28_
CHEC'D BY _____

RECEIVED

NOV 28 2005

Fletcher Yoder

PTO-90C (Rev. 10/03)

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No.	Applicant(s)
	09/620,520	FRANKS ET AL.
	Examiner	Art Unit
	Kathleen Mosser	3715

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on <u>08 April 2005</u> is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.

2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).

3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).

4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).

5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))

6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).

7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).

8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).

9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).

10. ☒ Other (including any explanation in support of the above items):

   The brief is missing the evidence and related proceedings appendices. Further, the summary of the claimed invention should a concise explanation of the subject matter defined in the claims. The current summary includes several comments related to the purported benefits of the invention, the prior art systems and implied fallbacks. The merits of the claims should not be discussed in the summary. Further it is unclear where each means plus function limitation of claim 28 has been specifically pointed out.

Kathleen Mosser
Patent Examiner
Art Unit 3715